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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 170

[EPA-HQ-OPP-2011-0184; FRL-9979-50]

RIN 2070-AJ22

Pesticides; Agricultural Worker Protection Standard; Notification of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notification of availability.

SUMMARY: EPA is announcing the availability of training materials covering the expanded training content required by the Federal Insecticide, Fungicide and Rodenticide Act Worker Protection Standard (WPS) for both agricultural workers and pesticide handlers. The publication of this notification of availability triggers the WPS requirement that training programs must include all of the topics specified in the 2015 revisions to the WPS.

DATES: Training programs must include all of the topics specified in 40 CFR 170.401(c)(3)(i)-(xxiii) and 170.501(c)(3)(i)-(xiv) no later than *[Insert date 180 days after date of publication in the Federal Register]*.

FOR FURTHER INFORMATION CONTACT: EPA is not requesting, and does not expect to receive, comments on this notification of availability. Questions should be directed to: Jennifer Park, Field and External Affairs Division (7506P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460-0001; telephone number: (703) 347-0121; email address: *Park.Jennifer@epa.gov*.

SUPPLEMENTARY INFORMATION:**I. General Information***A. Does this Action Apply to Me?*

You may be potentially affected by this action if you work in or employ persons working in crop production agriculture where pesticides are applied. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Agricultural Establishments (NAICS code 111000), *e.g.*, establishments or persons, such as farms, orchards, groves, greenhouses, and nurseries, primarily engaged in growing crops, plants, vines, or trees and their seeds.
- Nursery and Tree Production (NAICS code 111421), *e.g.*, establishments or persons primarily engaged in (1) growing nursery products, nursery stock, shrubbery, bulbs, fruit stock, sod, and so forth, under cover or in open fields and/or (2) growing short rotation woody trees with a growth and harvest cycle of 10 years or less for pulp or tree stock.
- Timber Tract Operations (NAICS code 113110), *e.g.*, establishments or persons primarily engaged in the operation of timber tracts for the purpose of selling standing timber.
- Forest Nurseries and Gathering of Forest Products (NAICS code 113210), *e.g.*, establishments or persons primarily engaged in (1) growing trees for reforestation and/or (2) gathering forest products, such as gums, barks, balsam needles, rhizomes, fibers, Spanish moss, ginseng, and truffles.

- Farm Workers (NAICS codes 11511, 115112, and 115114), *e.g.*, establishments or persons primarily engaged in providing support activities for growing crops; establishments or persons primarily engaged in performing a soil preparation activity or crop production service, such as plowing, fertilizing, seed bed preparation, planting, cultivating, and crop protecting services; and establishments or persons primarily engaged in performing services on crops, subsequent to their harvest, with the intent of preparing them for market or further processing.

- Pesticide Handling on Farms (NAICS code 115112), *e.g.*, establishments or persons primarily engaged in performing a soil preparation activity or crop production service, such as seed bed preparation, planting, cultivating, and crop protecting services.

- Farm Labor Contractors and Crew Leaders (NAICS code 115115), *e.g.*, establishments or persons primarily engaged in supplying labor for agricultural production or harvesting.

- Pesticide Handling in Forestry (NAICS code 115310), *e.g.*, establishments or persons primarily providing support activities for forestry, such as forest pest control.

- Pesticide Manufacturers (NAICS code 325320), *e.g.*, establishments primarily engaged in the formulation and preparation of agricultural and household pest control chemicals (except fertilizers).

- Farm Worker Support Organizations (NAICS codes 813311, 813312, and 813319), *e.g.*, establishments or persons primarily engaged in promoting causes associated with human rights either for a broad or specific constituency;

establishments or persons primarily engaged in promoting the preservation and protection of the environment and wildlife; and establishments primarily engaged in social advocacy.

- Farm Worker Labor Organizations (NAICS code 813930), *e.g.*, establishments or persons primarily engaged in promoting the interests of organized labor and union employees.

- Crop Advisors (NAICS codes 115112, 541690, 541712) *e.g.*, establishments or persons who primarily provide advice and assistance to businesses and other organizations on scientific and technical issues related to pesticide use and pest pressure.

II. Background

On November 2, 2015, EPA published a final rule making changes to the WPS, 40 CFR part 170, referred to as the “2015 revised WPS” (80 FR 67496) (FRL-9931-81). The WPS is a regulation primarily intended to reduce the risks of injury or illness resulting from agricultural workers’ and handlers’ use of and contact with agricultural pesticides on farms, forests, nurseries and greenhouses. The rule primarily seeks to protect workers (those who perform hand-labor tasks on pesticide-treated crops, such as harvesting, thinning or pruning) and handlers (those who mix, load and apply pesticides). The 2015 revised WPS requirements retained many of the 1992 WPS requirements, while increasing the stringency of some standards and adding new requirements.

III. Availability of Training Materials and Deadline for Compliance with New Training Requirements

Sections 170.401 and 170.501 of the 2015 revised WPS allowed employers to omit certain topics from training materials until 180 days after EPA publishes in the

Federal Register a notification of availability of new WPS training materials. EPA is announcing the availability of new training materials covering the expanded training content for both workers and handlers. These materials, developed through a cooperative agreement with the Pesticide Education Resources Collaborative (PERC), are available at <http://pesticideresources.org/>. These materials have been approved by EPA and contain the content required by the 2015 revised WPS. There are also new training materials developed by other organizations that have been approved by EPA and contain the content required by the 2015 revised WPS; some of these materials are available on the PERC website and others are proprietary.

EPA is currently reconsidering three requirements of the 2015 revised WPS and plans to solicit comments on potential changes to the designated representative provision, the minimum age for handlers and early-entry workers, and the application exclusion zone. If those requirements are changed through a final rulemaking, training materials may need to be amended to reflect such changes.

The publication of this notification of availability of the training materials specified in 40 CFR 170.401(c)(3) and 170.501(c)(3) commences the 180-day period provided in those provisions. Per §§ 170.401(c)(3) and 170.501(c)(3), WPS training programs must include all of the topics specified in §§ 170.401(c)(3)(i)-(xxiii) and 170.501(c)(3)(i)-(xiv) no later than [*Insert date 180 days after date of publication in the Federal Register*].

List of Subjects in 40 CFR Part 170

Environmental protection, Agricultural worker, Employer, Farms, Forests,
Greenhouses, Nurseries, Pesticide handler, Pesticides, Worker protection standard.

Dated: June 13, 2018.

Charlotte Bertrand,

*Acting Principal Deputy Assistant Administrator, Office of Chemical Safety and Pollution
Prevention.*

[FR Doc. 2018-13353 Filed: 6/21/2018 8:45 am; Publication Date: 6/22/2018]